

ATTACHMENT 10

SAMPLE

COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO REQUEST RELEASE OF FUNDS

(Date of Notice)

(Name of Responsible Entity [RE])

(Address)

(City, State, Zip Code)

(Telephone Number of RE Preparer Agency)

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS

On or about (at least one day after the end of the comment period) the (name of RE) will [if the RE is not also the grantee insert the following language here--"authorize the (name of grantee) to"] submit a request to the (HUD/state administering agency) for the release of (name of grant program) funds under [Title/Section ()] of the (name of the Act) of (date of Act), as amended, to undertake a project known as (project title), for the purpose of (nature/scope of project, and project address/location if applicable).

FINDING OF NO SIGNIFICANT IMPACT

The (name of RE) has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at (name and address of RE office where err can be examined and name and address of other locations where the record is available for review) and may be examined or copied weekdays () A.M. to () P.M.

PUBLIC COMMENTS

Any individual, group, or agency disagreeing with this determination or wishing to comment on the project may submit written comments to the (RE designated office responsible for receiving and responding to comments). All comments received by (if notice published: notice date plus fifteen days--if notice posted: posting date plus eighteen days) will be considered by the (name of RE) prior to authorizing submission of a request for release of funds. Commentors should specify which part of this Notice they are addressing.

RELEASE OF FUNDS

The (name of RE) certifies to (HUD/state) that (name of certifying officer) in (his/her) capacity as (official title) consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. (HUD's/state's) approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the (name of grantee) to use Program funds.

OBJECTIONS TO RELEASE OF FUNDS

(HUD/state) will consider objections to its release of funds and the (RE's name) certification received by (anticipated date of HUD/state receipt of rrof/c plus fifteen days) or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer or other officer of the (name of RE) approved by (HUD/state); (b) the (RE) has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by (HUD/state); or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to (HUD/state grant administration office) at (address of that office). Potential objectors should contact (HUD/state) to verify the actual last day of the objection period.

(name and title of RE certifying officer)

**THIS TEMPLATE IS FOR USE WHEN APLICANT IS AN OFFICIAL UNIT OF
LOCAL GOVERNMENT
(remove for use)**

**COMBINED NOTICE OF FINDING OF NO SIGNIFICANT
IMPACT AND INTENT TO REQUEST RELEASE OF
FUNDS**

Ben Morris, Mayor
City of Slidell
1330 Bayou Lane, Trailer 104
Slidell LA 70460
(985) 646-4332

Notice Issued: September 3, 2008

This Notice shall satisfy the above-cited two separate but related procedural notification requirements.

REQUEST FOR RELEASE OF FUNDS:

On or about September 19, 2008, the City of Slidell will submit a request to Office of Community Development (OCD) for the release of funds under the FY 2006 Department of Defense Appropriations Act, in accordance with the "Notice of Funding Availability" published in the Federal Register on February 13, 2006, for the purpose of installation of new water and sewer lines, construction of 9,000 linear feet of roadway and the widening of the W-14 canal along with two new storm water drainage canals. The improvements will take place on a 403-acre tract of land located on the west side of Interstate 10 in Slidell, LA between Fremaux Avenue and Old Spanish Trail. The total amount requested for this activity is \$560,284.66. to eliminate an urgent need, as a result of effects from Hurricane Katrina.

FINDING OF NO SIGNIFICANT IMPACT

The City of Slidell has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the temporary Mayor's Office at the Municipal Trailer Complex at 1330 Bayou Lane, Trailer 104, Slidell LA 70460 and may be examined or copies weekdays 8 a.m. to 4 p.m. If you need to contact the mayor's office by phone, please call (985) 646-4332.

PUBLIC COMMENTS:

Any individual, group, or agency disagreeing with this determination, or wishing to comment on the program may submit written comments to this office. All comments received by September 18, 2008, will be considered by this office prior to the authorizing

submission of a request for release of funds. Commentors should specify which part of this notice they are addressing.

RELEASE OF FUNDS:

This Office certifies to OCD that Ben Morris, in his capacity as Mayor, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. OCD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows the City of Slidell to use Program Funds

OBJECTIONS TO RELEASE OF FUNDS:

OCD will accept objections to its release of funds and the OCD's certification received by October 4, 2008 or a period of fifteen days from its receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer or other officer of the City of Slidell approved by OCD; (b) the City of Slidell has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient or other participants in the project have committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by OCD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to:

Thomas Brennan
Assistant Executive Director
Office of Community Development
150 N. Third Street, 6th Floor
Baton Rouge LA 70801

Potential objectors should contact OCD to verify the actual last day of the objection period.

Ben Morris, Mayor
City of Slidell

ATTACHMENT 11

Request for Release of Funds and Certification

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development

OMB No. 2506-0087
(exp. 3/31/2011)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)		
1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
	7. Name and address of recipient (if different than responsible entity)	
8. HUD or State Agency and office unit to receive request		
The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following		
9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)	
11. Program Activity/Project Description		

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did not require the preparation and dissemination of an environmental impact statement.
4. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

Date signed

Address of Certifying Officer

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Request for Release of Funds and Certification

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development

OMB No. 2506-0087
(exp. 11/30/2004)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) State of Louisiana Disaster Recovery Assistance Program	2. HUD/State Identification Number (HUD GRANT NUMBER) B-06-DG-22-0001	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s) 14.228	5. Name and address of responsible entity Randy Roach, Mayor of Lake Charles 326 Pujo Street Lake Charles, LA 70602-900	
6. For information about this request, contact (name, phone and fax number) Randy Roach Mayor of Lake Charles 337/491-1429 ; fax 337/491-1206	7. Name and address of recipient (if different than responsible entity)	
8. HUD or State Agency and office unit to receive request Louisiana Division of Administration Office of Community Development Disaster Recovery Unit 150 North 3rd Street, Suite 700 Baton Rouge, LA. 70801		

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s) City of Lake Charles Lakefront Streetscape Enhancement & Infrastructure Improvements Project	10. Location (Street address, city, county, State) 900 Lakeshore Drive, Lake Charles, LA 70602
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11. Program Activity/Project Description (including grant amount)

The City of Lake Charles is proposing to replace the existing lakefront boardwalk area located along Lakeshore Drive near downtown Lake Charles. The lakeshore area was severely damaged by Hurricane Rita, resulting in this area becoming a blight on the community. The proposed project includes approximately 56 acres of developed, urban land which includes the Lake Charles Civic Center and surrounding grounds in Lake Charles, LA.

The project will include the following lakefront streetscape enhancements:

1. Construction of ADA-compliant open space multi-use walkways, pedestrian streetscape crosswalks and concrete pavers;
2. Installation of underground electrical services and replacement of electrical hookups with new electrical access stations;
3. Installation of earthwork berms for enhanced buffering from the lake, turf, landscaping, and planting of wind-resistant Palm trees including installation of irrigation systems;
4. Installation of public seating areas including benches, seating walls, trash receptacles, shade islands, etc.;
5. Installation of water drinking systems including approximately 3000 linear feet of new water supply flow lines and installation of new fire hydrants;
6. Installation of sewers, new sewer pump station and approximately 1000 linear feet of sewer force main;
7. Replacement of sidewalks that are damaged due to the installation of sewer force main and water main and replacement of broken sidewalks that are no longer ADA compliant;
8. Installation of subsurface drainage and catch basins for storm water;
9. Installation of way-finding and interpretive signage including construction of multiple ornamental/steel gateway entrances;
10. Demolition of existing roadway pavement;
11. Refurbishing of existing handrails located along the Lakefront.

The total development cost is \$5,357,748. The total CDBG disaster assistance is \$5,357,748.

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐, did not ☒ require the preparation and dissemination of an environmental impact statement.
4. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Name & Title of Certifying Officer

Randy Roach
Mayor, City of Lake Charles

Date signed 4/27/09

Address of Certifying Officer

City of Lake Charles
326 Pujo Street
Lake Charles, LA 70602-900

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Date signed

X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

ATTACHMENT 12

Compliance Documentation Checklist

24 CFR 58.6

Grant Recipient: _____ Project Name: _____
Project Description (Include all actions which are either geographically or functionally related): _____

Level of Environmental Review Determination:

Select One: (1) Exempt per 24 CFR 58.34, or (2) Categorically Excluded not subject to statutes per § 58.35(b), or (3) Categorically Excluded subject to statutes per § 58.35(a), or (4) Environmental Assessment per § 58.36, or (5) EIS per 40 CFR 1500

STATUTES and REGULATIONS listed at 24 CFR 58.6

FLOOD DISASTER PROTECTION ACT

1. Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard?

☐ No; Cite Source Document: _____

☐ Yes; Source Document: _____

2. Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

☐ Yes (Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file). (**Appendix I**)

☐ No (**Federal assistance may not be used in the Special Flood Hazards Area**).

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

☐ No; Cite Source Documentation:

(This element is completed).

☐ Yes - **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone or a Military Installation's Clear Zone?

☐ No; Source Documentation: _____

Project complies with 24 CFR 51.303(a)(3).

☐ Yes; **Disclosure statement must be provided** to buyer and a copy of the signed disclosure must be maintained in this Environmental Review Record (**Appendix II**)

Prepared by (name and title, please print): _____, _____

Signature: _____

Date: _____



Compliance Documentation Checklist 24 CFR 58.6

PROJECT NAME / DESCRIPTION: Infrastructure Long Term Community Recovery Program – Local Government Infrastructure-Primary and Secondary Education Infrastructure. \$200,000,000 was allocated in Action Plan Amendment # 2. An additional \$47,499,999 was allocated in Action Plan #19. These monies will be used for casework and modular laminates in the school. Casework includes bookshelves, overhead cabinets, cubby holes for students' coats/belongings, cabinet doors, etc. plus student chairs and desks.

Level of Environmental Review Determination: Categorically Excluded, not subject to statutes per 58.35(b).
Select One: Exempt per 24 CFR 58.34; Categorically Excluded not subject to statutes per § 58.35(b); Categorically Excluded subject to statutes per § 58.35(a), or Environmental Assessment per § 58.36, or EIS per 40 CFR 1500

STATUTES and REGULATIONS listed at 24 CFR 58.6

FLOOD DISASTER PROTECTION ACT

1. Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard?

(x) No; Cite Source Document:

FEMA FIRM 220078015C indicates activity is in Flood Zone C. No mandatory insurance requirements.

() Yes; Source Document: _____

2. Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

() Yes (Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file).

() No (Federal assistance may not be used in the Special Flood Hazards Area).

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

(x) No; Cite Source Documentation: Project is not located in a coastal barrier resource area.

(This element is completed).

() Yes - Federal assistance may not be used in such an area.

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone or a Military Installation's Clear Zone?

(x) No; Source Documentation: Project is not located in an airport runway clear zone.

Project complies with 24 CFR 51.303(a)(3).

() Yes; **Disclosure statement must be provided** to buyer and a copy of the signed disclosure must be maintained in this Environmental Review Record.

Prepared by (name and title, please print): Ann Herring, State of Louisiana, Office of Community Development,
Disaster Recovery Unit, Environmental Officer

Signature: _____

Date: _____

February 9, 2009



Compliance Documentation Checklist
24 CFR 58.6

PROJECT NAME / DESCRIPTION: Infrastructure Long Term Community Recovery Program – City Planning Commission Public Service Positions- is requesting funds (\$ 915,807) to fill staff positions to fulfill local comprehensive planning techniques and enforce development regulations in this period of recovery. This covers 5 full time positions for 3 years.

Level of Environmental Review Determination: Exempt per 24 CFR 58.34 58.34(a)(3) JH
Select One: Exempt per 24 CFR 58.34; Categorically Excluded not subject to statutes per § 58.35(b); Categorically Excluded subject to statutes per § 58.35(a), or Environmental Assessment per § 58.36, or EIS per 40 CFR 1500)

STATUTES and REGULATIONS listed at 24 CFR 58.6

FLOOD DISASTER PROTECTION ACT

1. Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard?

(x) No; Cite Source Document:

Project involves salaries and benefits only.

() Yes; Source Document: _____

2. Is the community participating in the National Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

(X) Yes (Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file).

() No (Federal assistance may not be used in the Special Flood Hazards Area).

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

(x) No; Cite Source Documentation: Project involves salaries and benefits only.

(This element is completed).

() Yes - Federal assistance may not be used in such an area.

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone or a Military Installation's Clear Zone?

(x) No; Source Documentation: These funds cover salaries and benefits only.

Project complies with 24 CFR 51.303(a)(3).

() Yes; Disclosure statement must be provided to buyer and a copy of the signed disclosure must be maintained in this Environmental Review Record.

Prepared by (name and title, please print): Ann Herring, State of Louisiana, Office of Community Development, Disaster Recovery Unit, Environmental Officer

Signature: _____

Date: _____

ATTACHMENT 13

Title 24: Housing and Urban Development

Part 55 – FLOODPLAIN MANAGEMENT

Subpart A—General

§ 55.1 Purpose and basic responsibility.

- (a) This part implements the requirements of Executive Order 11988, Floodplain Management, and employs the principles of the Unified National Program for Floodplain Management. It covers the proposed acquisition, construction, improvement, disposition, financing and use of properties located in a floodplain for which approval is required either from HUD under any applicable HUD program or from a grant recipient subject to 24 CFR part 58. This part does not prohibit approval of such actions (except for certain actions in high hazard areas), but provides a consistent means for implementing the Department's interpretation of the executive order in the project approval decision making processes of HUD and of grant recipients subject to 24 CFR part 58. The implementation of Executive Order 11988 under this part shall be conducted by HUD, for Department-administered programs subject to environmental review under 24 CFR part 50, and by authorized recipients of HUD financial assistance subject to environmental review under 24 CFR part 58.
- (b) Under section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), proposed HUD financial assistance (including mortgage insurance) for acquisition or construction purposes in any "area having special flood hazards" (a flood zone designated by the Federal Emergency Management Agency (FEMA)) shall not be approved in communities identified by FEMA as eligible for flood insurance but which are not participating in the National Flood Insurance Program. This prohibition only applies to proposed HUD financial assistance in a FEMA-designated area of special flood hazard one year after the community has been formally notified by FEMA of the designation of the affected area. This prohibition is not applicable to HUD financial assistance in the form of formula grants to states, including financial assistance under the State-administered CDBG Program (24 CFR part 570, subpart I) and the State-administered Rental Rehabilitation Program (24 CFR 511.51), Emergency Shelter Grant amounts allocated to States (24 CFR parts 575 and 576), and HOME funds provided to a state under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701–12839).
- (c) Except with respect to actions listed in §55.12(c), no HUD financial assistance (including mortgage insurance) may be approved after May 23, 1994 with respect to:
- (1) Any action, other than a functionally dependent use, located in a floodway;
 - (2) Any critical action located in a coastal high hazard area; or
 - (3) Any non-critical action located in a coastal high hazard area, unless the action is designed for location in a coastal high hazard area or is a functionally dependent use. An action will be considered to be designed for location in a coastal high hazard area if:
 - (i) In the case of new construction or substantial improvement, the work meets the current standards for V zones in FEMA regulations (44 CFR 60.3(e)) and, if applicable, the Minimum Property Standards for such construction in 24 CFR 200.926d(c)(4)(iii); or

- (ii) In the case of existing construction (including any minor improvements):
 - (A) The work met FEMA elevation and construction standards for a coastal high hazard area (or if such a zone or such standards were not designated, the 100-year floodplain) applicable at the time the original improvements were constructed; or
 - (B) If the original improvements were constructed before FEMA standards for the 100-year floodplain became effective or before FEMA designated the location of the action as within the 100-year floodplain, the work would meet at least the earliest FEMA standards for construction in the 100-year floodplain.

§ 55.2 Terminology.

(a) With the exception of those terms defined in paragraph (b) of this section, the terms used in this part shall follow the definitions contained in section 6 of Executive Order 11988 and in the Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6030, February 10, 1978) issued by the Water Resources Council; and the terms “criteria” and “Regular Program”, shall follow the definitions contained in FEMA regulations at 44 CFR 59.1.

(b) The definitions of the following terms in Executive Order 11988 and related documents affecting this part are modified for purposes of this part:

- (1) **Coastal high hazard area** means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) under FEMA regulations as Zone V1–30, VE, or V. (FIRMs as well as Flood Hazard Boundary Maps (FHBM) shall also be relied on for the delineation of “100-year floodplains” (§55.2(b)(8)), “500-year floodplains” (§55.2(b)(3)), and “floodways” (§55.2(b)(4)).

(2)

- (i) **Critical action** means any activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons, or damage to property. Critical actions include activities that create, maintain or extend the useful life of those structures or facilities that:

- (A) Produce, use or store highly volatile, flammable, explosive, toxic or water-reactive materials;
- (B) Provide essential and irreplaceable records or utility or emergency services that may become lost or inoperative during flood and storm events (e.g., data storage centers, generating plants, principal utility lines, emergency operations centers including fire and police stations, and roadways providing sole egress from flood-prone areas); or
- (C) Are likely to contain occupants who may not be sufficiently mobile to avoid loss of life or injury during flood or storm events, e.g., persons who reside in hospitals, nursing homes, convalescent homes, intermediate care facilities, board and care facilities, and retirement service centers. Housing for independent living for the elderly is not considered a critical action.

- (ii) Critical actions shall not be approved in floodways or coastal high hazard areas.

- (3) **500-year floodplain** means the minimum floodplain of concern for Critical Actions and is the area subject to inundation from a flood having a 0.2 percent chance of occurring in any given year. (See §55.2(b)(1) for appropriate data sources.)

- (4) **Floodway** means that portion of the floodplain which is effective in carrying flow, where the flood hazard is generally the greatest, and where water depths and velocities are the highest. The term "floodway" as used here is consistent with "regulatory floodways" as identified by FEMA. (See §55.2(b)(1) for appropriate data sources.)
- (5) **Functionally dependent use** means a land use that must necessarily be conducted in close proximity to water (e.g., a dam, marina, port facility, water-front park, and many types of bridges).
- (6) **High hazard area** means a floodway or a coastal high hazard area.
- (7) **100-year floodplain** means the floodplain of concern for this part and is the area subject to a one percent or greater chance of flooding in any given year. (See §55.2(b)(1) for appropriate data sources.)
- (8)
 - (i) **Substantial improvement** means either:
 - (A) Any repair, reconstruction, modernization or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - (1) Before the improvement or repair is started; or
 - (2) If the structure has been damaged, and is being restored, before the damage occurred; or
 - (B) Any repair, reconstruction, modernization or improvement of a structure that results in an increase of more than twenty percent in the number of dwelling units in a residential project or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project.
 - (ii) **Substantial improvement** may not be defined to include either:
 - (A) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that is solely necessary to assure safe living conditions, or
 - (B) Any alteration of a structure listed on the National Register of Historical Places or on a State Inventory of Historic Places.
 - (iii) Structural repairs, reconstruction, or improvements not meeting this definition are considered "minor improvements".

§ 55.3 Assignment of responsibilities.

- (a)(1) *The Assistant Secretary for Community Planning and Development (CPD)* shall oversee:
 - (i) The Department's implementation of the order and this part in all HUD programs, and
 - (ii) The implementation activities of HUD program managers and grant recipients for HUD financial assistance subject to 24 CFR part 58.
- (2) In performing these responsibilities, the Assistant Secretary for CPD shall make pertinent policy determinations in cooperation with appropriate program offices and provide necessary assistance, training, publications, and procedural guidance.
- (b) *Other HUD Assistant Secretaries, the General Counsel, and the President of the Government National Mortgage Association (GNMA)* shall:
 - (1) Ensure compliance with this part for all actions under their jurisdiction that are proposed to be conducted, supported, or permitted in a floodplain;
 - (2) Ensure that actions approved by HUD or grant recipients are monitored and that any prescribed mitigation is implemented;

- (3) Ensure that the offices under their jurisdiction have the technical resources to implement the requirements of this part; and
 - (4) Incorporate in departmental regulations, handbooks, and project and site standards those criteria, standards, and procedures necessary to comply with the requirements of this part.
- (c) *Recipient Certifying Officer.* In accordance with section 9 of Executive Order 11988, Certifying Officers of grant recipients administering activities subject to 24 CFR part 58 shall:
- (1) Comply with this part in carrying out HUD-assisted programs, and
 - (2) Monitor approved actions and ensure that any prescribed mitigation is implemented.

Subpart B—Application of Executive Order on Floodplain Management

§ 55.10 Environmental review procedures under 24 CFR parts 50 and 58.

(a) Where an environmental review is required under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, and 24 CFR part 50 or part 58, compliance with this part shall be completed before the completion of an environmental assessment (EA) including a finding of no significant environmental impact (FONSI), or an environmental impact statement (EIS), in accordance with the decision points listed in 24 CFR 50.17 (a) through (h), or before the preparation of an EA under 24 CFR 58.40 or an EIS under 24 CFR 58.36. For types of proposed actions that are categorically excluded from National Environmental Policy Act (NEPA) requirements under 24 CFR part 50 (or part 58), compliance with this part shall be completed before the Department's initial (SAMA, conditional, etc.) approval (or the conditional commitment or approval by a grant recipient subject to 24 CFR part 58) of proposed actions in a floodplain.

(b) The categorical exclusion of certain proposed actions from environmental review requirements under NEPA and 24 CFR parts 50 and 58 (see 24 CFR 50.20 and 58.35) does not exclude those actions from compliance with this part.

§ 55.11 Applicability of subpart C decision making process.

(a) Before reaching the decision points described in §55.10(a), HUD (for Department-administered programs) or the grant recipient (for HUD financial assistance subject to 24 CFR part 58) shall determine whether Executive Order 11988 and this part apply to the proposed action.

(b) If Executive Order 11988 applies, the approval of a proposed action or initial commitment shall be made in accordance with this part. The primary purpose of Executive Order 11988 is to “avoid direct or indirect support of floodplain development.”

(c) The following table indicates the applicability, by location and type of action, of the decision making process for implementing Executive Order 11988 under subpart C of this part.

Table 1

Type of proposed action	Type of proposed location			
	Floodways	Coastal high hazard areas	100-year floodplain outside high hazard area	Area between 100- and 500-year floodplain
(new reviewable action or an amendment)				
Critical actions as defined in § 55.2(b)(2).	Critical actions not allowed.	Critical actions not allowed.	Allowed if the proposed critical action is processed under § 55.20 \1\.	Allowed if the proposed critical action is processed under § 55.20 \1\.
Non-critical actions not excluded under § 55.12 (b) or (c).	Allowed only if the proposed action is a Functionally dependent use and processed under § 55.20 \1\.	Allowed only if the proposed action: (1) Is either (a) designed for location in a coastal high hazard area or (b) a functionally dependent use; and (2) is processed under § 55.20 \1\.	Allowed if the proposed action is processed under § 55.20 \1\.	Any non-critical action is allowed without processing under this part.

\1\ Or those paragraphs of § 55.20 that are applicable to an action listed in § 55.12(a).

§ 55.12 Inapplicability of 24 CFR part 55 to certain categories of proposed actions.

(a) The decision making steps in §55.20 (b), (c) and (g) (steps 2, 3 and 7) shall not apply to the following categories of proposed actions:

- (1) HUD actions involving the disposition of HUD-acquired multifamily housing projects or "bulk sales" of HUD-acquired one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24).
- (2) HUD's actions under section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) for the purchase or refinancing of existing multifamily housing projects (including hospitals, nursing homes, board and care facilities, and intermediate care facilities) in communities that are in good standing under the NFIP.
- (3) HUD mortgage insurance actions for the repair, rehabilitation, modernization or improvement of existing multifamily housing projects (including nursing homes, board and care facilities and intermediate care facilities) and existing one- to four-family properties, in communities that are in the Regular Program of the NFIP and are in good standing, provided that the number of units is not increased more than 20 percent, the action does not involve a conversion from nonresidential to residential land use, and the footprint of the structure and paved areas is not significantly increased.

(b) The decision making process in §55.20 shall not apply to the following categories of proposed actions:

- (1) HUD's mortgage insurance actions and other financial assistance for the purchasing, mortgaging or refinancing of existing one- to four-family properties in communities that are in the Regular Program of the National Flood Insurance Program (NFIP) and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), where the action is not a critical action and the property is not located in a floodway or coastal high hazard area;
- (2) Financial assistance for minor repairs or improvements on one- to four-family properties that do not meet the thresholds for "substantial improvement" under §55.2(b)(8);
- (3) HUD actions involving the disposition of individual HUD-acquired, one- to four-family properties; and
- (4) HUD guarantees under the Loan Guarantee Recovery Fund Program (24 CFR part 573) of loans that refinance existing loans and mortgages, where any new construction or rehabilitation financed by the existing loan or mortgage has been completed prior to the filing of an application under the program, and the refinancing will not allow further construction or rehabilitation, nor result in any physical impacts or changes except for routine maintenance.

(c) This part shall not apply to the following categories of proposed HUD actions:

- (1) HUD-assisted exempt activities described in 24 CFR 58.34;
- (2) Policy level actions described at 24 CFR 50.16 that do not involve site-based decisions;
- (3) HUD's implementation of the full disclosure and other registration requirements of the Interstate Land Sales Disclosure Act (15 U.S.C. 1701—1720);
- (4) An action involving a repossession, receivership, foreclosure, or similar acquisition of property to protect or enforce HUD's financial interests under previously approved loans, grants, mortgage insurance, or other HUD assistance;
- (5) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain;
- (6) HUD's approval of a project site, an incidental portion of which is situated in an adjacent floodplain, but only if:
 - (i) The proposed construction and landscaping activities (except for minor grubbing, clearing of debris, pruning, sodding, seeding, etc.) do not occupy or modify the 100-year floodplain or the 500-year floodplain (for Critical Actions);
 - (ii) Appropriate provision is made for site drainage; and
 - (iii) A covenant or comparable restriction is placed on the property's continued use to preserve the floodplain;
- (7) An action for interim assistance, assistance under the section 232(i) Fire Safety Equipment Loan Insurance Program, or emergency activities involving imminent threats to health and safety, and limited to necessary protection, repair or restoration activities to control the imminent risk or damage;
- (8) HUD's approval of financial assistance for a project on any site in a floodplain for which FEMA has issued:
 - (i) A final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) that removed the property from a FEMA-designated floodplain location; or
 - (ii) A conditional LOMA or conditional LOMR if the HUD approval is subject to the requirements and conditions of the conditional LOMA or conditional LOMR;

- (9) HUD's acceptance of a housing subdivision approval action by the Department of Veterans Affairs or Farmers Home Administration in accordance with section 535 of the Housing Act of 1949 (42 U.S.C. 1490o);
- (10) An action that was, on May 23, 1994, already approved by HUD (or a grant recipient subject to 24 CFR part 58) and is being implemented (unless approval is requested for a new reviewable action), provided that §§55.21 and 55.22 apply where the covered transactions under those sections have not yet occurred, and that any hazard minimization measures required by HUD (or a grant recipient subject to 24 CFR part 58) under its implementation of Executive Order 11988 before May 23, 1994 shall be completed;
- (11) Issuance or use of Housing Vouchers, Certificates under the Section 8 Existing Housing Program, or other forms of rental subsidy where HUD, the awarding community, or the public housing agency that administers the contract awards rental subsidies that are not project-based (*i.e.*, do not involve site-specific subsidies); and
- (12) Secondary mortgage operations of the Government National Mortgage Association (GNMA).

Subpart C—Procedures for Making Determinations on Floodplain Management

§ 55.20 Decision making process.

The decision making process for compliance with this part contains eight steps, including public notices and an examination of practicable alternatives. The steps to be followed in the decision making process are:

(a) Step 1. Determine whether the proposed action is located in a 100-year floodplain (or a 500-year floodplain for a Critical Action). If the proposed action would not be conducted in one of those locations, then no further compliance with this part is required.

(b) Step 2. Notify the public at the earliest possible time of a proposal to consider an action in a floodplain (or in the 500-year floodplain for a Critical Action), and involve the affected and interested public in the decision making process.

- (1) The public notices required by paragraphs (b) and (g) of this section may be combined with other project notices wherever appropriate. Notices required under this part must be bilingual if the affected public is largely non-English speaking. In addition, all notices must be published in an appropriate local printed news medium, and must be sent to federal, state, and local public agencies, organizations, and, where not otherwise covered, individuals known to be interested in the proposed action.
- (2) A minimum of 15 calendar days shall be allowed for comment on the public notice.
- (3) A notice under this paragraph shall state: the name, proposed location and description of the activity; the total number of acres of floodplain involved; and the HUD official and phone number to contact for information. The notice shall indicate the hours and the HUD office at which a full description of the proposed action may be reviewed.

(c) Step 3. Identify and evaluate practicable alternatives to locating the proposed action in a floodplain (or the 500-year floodplain for a Critical Action).

- (1) The consideration of practicable alternatives to the proposed site or method may include:
 - (i) Locations outside the floodplain (or 500-year floodplain for a Critical Action);
 - (ii) Alternative methods to serve the identical project objective; and
 - (iii) A determination not to approve any action.
- (2) In reviewing practicable alternatives, the Department or a grant recipient subject to 24 CFR part 58 shall consider feasible technological alternatives, hazard reduction methods and related mitigation costs, and environmental impacts.

(d) Step 4. Identify the potential direct and indirect impacts associated with the occupancy or modification of the floodplain (or 500-year floodplain for a Critical Action).

(e) Step 5. Where practicable, design or modify the proposed action to minimize the potential adverse impacts within the floodplain (including the 500-year floodplain for a Critical Action) and to restore and preserve its natural and beneficial values. All critical actions in the 500-year floodplain shall be designed and built at or above the 100-year floodplain (in the case of new construction) and modified to include:

- (1) Preparation of and participation in an early warning system;
- (2) An emergency evacuation and relocation plan;
- (3) Identification of evacuation route(s) out of the 500-year floodplain; and
- (4) Identification marks of past or estimated flood levels on all structures.

(f) Step 6. Reevaluate the proposed action to determine:

- (1) Whether it is still practicable in light of its exposure to flood hazards in the floodplain, the extent to which it will aggravate the current hazards to other floodplains, and its potential to disrupt floodplain values; and
- (2) Whether alternatives preliminarily rejected at Step 3 (paragraph (c)) of this section are practicable in light of the information gained in Steps 4 and 5 (paragraphs (d) and (e)) of this section.

(g) Step 7.

- (1) If the reevaluation results in a determination that there is no practicable alternative to locating the proposal in the floodplain (or the 500-year floodplain for a Critical Action), publish a final notice that includes:
 - (i) The reasons why the proposal must be located in the floodplain;
 - (ii) A list of the alternatives considered; and
 - (iii) All mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values.
- (2) In addition, the public notice procedures of §55.20(b)(1) shall be followed, and a minimum of 7 calendar days for public comment before approval of the proposed action shall be provided.

(h) Step 8. Upon completion of the decision making process in Steps 1 through 7, implement the proposed action. There is a continuing responsibility to ensure that the mitigating measures identified in Step 7 are implemented.

§ 55.21 Notification of floodplain hazard.

For HUD programs under which a financial transaction for a property located in a floodplain (a 500-year floodplain for a Critical Action) is guaranteed, approved, regulated or insured, any private party participating in the transaction and any current or prospective tenant shall be informed by HUD (or by HUD's designee, e.g., a mortgagor) or a grant recipient subject to 24 CFR part 58 of the hazards of the floodplain location before the execution of documents completing the transaction.

§ 55.22 Conveyance restrictions for the disposition of multifamily real property.

(a) In the disposition (including leasing) of multifamily properties acquired by HUD that are located in a floodplain (a 500-year floodplain for a Critical Action), the documents used for the conveyance must:

- (1) Refer to those uses that are restricted under identified federal, state, or local floodplain regulations; and
- (2) Include any land use restrictions limiting the use of the property by a grantee or purchaser and any successors under state or local laws.

(b)(1) For disposition of multifamily properties acquired by HUD that are located in a 500-year floodplain and contain Critical Actions, HUD shall, as a condition of approval of the disposition, require by covenant or comparable restriction on the property's use that the property owner and successive owners provide written notification to each current and prospective tenant concerning:

- (i) The hazards to life and to property for those persons who reside or work in a structure located within the 500-year floodplain, and
 - (ii) The availability of flood insurance on the contents of their dwelling unit or business.
- (2) The notice shall also be posted in the building so that it will be legible at all times and easily visible to all persons entering or using the building.

§ 55.24 Aggregation.

Where two or more actions have been proposed, require compliance with subpart C of this part, affect the same floodplain, and are currently under review by the Department (or by a grant recipient subject to 24 CFR part 58), individual or aggregated approvals may be issued. A single compliance review and approval under this section is subject to compliance with the decision making process in §55.20.

§ 55.25 Areawide compliance.

(a) A HUD-approved areawide compliance process may be substituted for individual compliance or aggregated compliance under §55.24 where a series of individual actions is proposed or contemplated in a pertinent area for HUD's examination of floodplain hazards. In areawide compliances, the area for examination may include a sector of, or the entire, floodplain—as relevant to the proposed or anticipated actions. The areawide compliance process shall be in accord with the decision making process under §55.20.

(b) The areawide compliance process shall address the relevant executive orders and shall consider local land use planning and development controls (e.g., those enforced by the community for purposes of floodplain management under the National Flood Insurance Program (NFIP)) and applicable state programs for floodplain management. The process shall include the development and publication of a strategy that identifies the range of development and mitigation measures under which the proposed HUD assistance may be approved and that indicates the types of actions that will not be approved in the floodplain.

(c) Individual actions that fit within the types of proposed HUD actions specifically addressed under the areawide compliance do not require further compliance with §55.20 except that a determination by the Department or a grant recipient subject to 24 CFR part 58 shall be made concerning whether the individual action accords with the areawide strategy. Where the individual action does not accord with the areawide strategy, specific development and mitigation measures shall be prescribed as a condition of HUD's approval of the individual action.

(d) Areawide compliance under the procedures of this section is subject to the following provisions:

- (1) It shall be initiated by HUD through a formal agreement of understanding with affected local governments concerning mutual responsibilities governing the preparation, issuance, implementation, and enforcement of the areawide strategy;
- (2) It may be performed jointly with one or more Federal departments or agencies, or grant recipients subject to 24 CFR part 58 that serve as the responsible Federal official;
- (3) It shall establish mechanisms to ensure that:
 - (i) The terms of approval of individual actions (e.g., concerning structures and facilities) will be consistent with the areawide strategy;
 - (ii) The controls set forth in the areawide strategy are implemented and enforced in a timely manner; and
 - (iii) Where necessary, mitigation for individual actions will be established as a condition of approval.
- (4) An open scoping process (in accordance with 40 CFR 1501.7) shall be used for determining the scope of issues to be addressed and for identifying significant issues related to housing and community development for the floodplain;
- (5) Federal, state and local agencies with expertise in floodplain management, flood evacuation preparedness, land use planning and building regulation, or soil and natural resource conservation shall be invited to participate in the scoping process and to provide advice and comments; and
- (6) Eligibility for participation in and the use of the areawide compliance must be limited to communities that are in the Regular Program of the National Flood Insurance Program and in good standing (*i.e.*, not suspended from program eligibility or placed on probation under 44 CFR 59.24), thereby demonstrating a capacity for and commitment to floodplain management standards sufficient to perform responsibilities under this part.
- (7) An expiration date (not to exceed ten years from the date of the formal adoption by the local governments) for HUD approval of areawide compliance under this part must be stated in the agreement between the local governments and HUD. In conjunction with the setting of an expiration date, a mechanism for HUD's reevaluation of the appropriateness of areawide compliance must be provided in the agreement.

§ 55.26 Adoption of another agency's review under the executive orders.

If a proposed action covered under this part is already covered in a prior review performed under the executive order by another agency, that review may be adopted by HUD or by a grant recipient authorized under 24 CFR part 58, provided that:

- (a) There is no pending litigation relating to the other agency's review for floodplain management;
- (b) The adopting agency makes a finding that:
 - (1) The type of action currently proposed is comparable to the type of action previously reviewed by the other agency; and
 - (2) There has been no material change in circumstances since the previous review was conducted; and
- (c) As a condition of approval, mitigation measures similar to those prescribed in the previous review shall be required of the current proposed action.

§ 55.27 Documentation.

- (a) For purposes of compliance with §55.20, the responsible HUD official who would approve the proposed action (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) shall require that the following actions be documented:
 - (1) Under §55.20(c), practicable alternative sites have been considered outside the floodplain, but within the local housing market area, the local public utility service area, or the jurisdictional boundaries of a recipient unit of general local government (as defined in 24 CFR 570.3), whichever geographic area is more appropriate to the proposed HUD action. Actual sites under review must be identified and the reasons for the non-selection of those sites as practicable alternatives must be described; and
 - (2) Under §55.20(e), measures to minimize the potential adverse impacts of the proposed action on the affected floodplain as identified in §55.20(d) have been applied to the design for the proposed action.
- (b) For purposes of compliance with §55.24, §55.25, or §55.26 (as appropriate), the responsible HUD official (or the Certifying Officer for a grant recipient subject to 24 CFR part 58) who would approve the proposed action shall require documentation of compliance with the required conditions.
- (c) Documentation of compliance with this part (including copies of public notices) must be attached to the environmental assessment, the environmental impact statement or the compliance record and be maintained as a part of the project file. In addition, for environmental impact statements, documentation of compliance with this part must be included as a part of the record of decision (or environmental review record for grant recipients subject to 24 CFR part 58).

APPENDIX B

FLOODPLAINS

8-STEP DECISION MAKING PROCESS

FEMA FLOODPLAIN MAP

FEMA FLOOD RECOVERY GUIDANCE

Belmont Apartments Project

Floodplain Decision-Making Process 24 CFR 55.20

Step 1 Determine whether the proposed action is located in a 100-year floodplain.

According to the Flood Insurance Rate Map (**FIRM**), community panel number 22051C0145E, produced by the Federal Emergency Management Agency dated March 23, 1995, the subject property is located in Zone AE, which is within the 100-year floodplain. According to FEMA Flood Recovery Guidance released in April 2006, the subject property has a base flood elevation of three feet.

The City of Gretna has not acted as a natural floodplain for the Mississippi River since the U.S. Corps of Engineers started to build a system of levees in the 1920s. The controls on the river system have significantly modified the natural floodplain and replaced it with a managed system that extends to the Gulf of Mexico. Therefore, no further or significant impacts to the floodplain would result from this project.

However, the impact of hurricanes, such as Hurricane Katrina in August 2005, may result in a failure of the levee system and therefore cause loss of life and property to flooding events. It is due to this potential impact that the 8-step decision making process is being completed.

Step 2 Notify the public.

A Public Notice was printed in the Times-Picayune, the local and regional newspaper for the City of Gretna, on October 29, 2008. The target group for this Public Notice is persons residing in the Gretna. Thirty (30) calendar days were provided for comment on the public notice. An affidavit of the Public Notice is attached to this documentation.

Step 3 Identify and evaluate practicable alternatives to locating the proposed action in a floodplain.

The Belmont Apartments is an apartment complex that has 204 apartment units and two pools. The apartment complex is currently occupied with tenants. The apartment complex is proposed for rehabilitation to include appliance upgrades and cosmetic changes to include new HVACs, new energy efficient water heaters, new energy star appliances, sidewalk repair.

Alternative 1: Determine not to approve any action.

Response: The subject property is currently outdated and is in need of upgrades. Adopting a "no action option" will result in the continued deterioration of the property,

and the lack of affordable housing in the City of Gretna. The impact of such a decision will be twofold: (1) to deprive the residents of Gretna to move into affordable housing as twenty percent of the 204 apartment units will be offered as affordable housing, and (2) it will leave the neighborhood in a perpetual state of physical decline.

The entire project site and surrounding target neighborhood are located in a 100 year floodplain, as is 80 percent of the City of Gretna. The complex is currently developed and is occupied. The rehabilitation will improve the quality of life in the neighborhood.

Alternative 2: Rehabilitate the apartment building

Response: The rehabilitation of the subject property will upgrade the interior and exterior components of the property and assist in the mitigation of the lack of available and affordable housing in the City of Gretna. The Rehabilitation process will also aid in the improvement of the viewscape of the neighborhood.

The City of Gretna is protected from flooding caused by hurricanes with the reconstruction of a levee system surrounding the city that is rated to provide protection from a Category 3 hurricane. The levee system does not eliminate the City's designated 100-year floodplains, but rather protects it from the impact of hurricane caused storm surges.

Step 4 Identify potential direct and indirect impacts associated with the occupancy of the floodplain.

The proposed project will not adversely affect the 100 year floodplain because the lower Mississippi River no longer functions as a natural floodplain system and is controlled by man-made levees and pumping systems.

However, the impact of the hurricanes, such as Hurricane Katrina in August 2005, may result in a failure of the levee system and therefore cause loss of life and property to flooding events. Based on the rehabilitation plans for the property, the plans include appliance upgrades and cosmetic changes to include new HVACs, new energy efficient water heaters, new energy star appliances, sidewalk repair.

Step 5 Design or modify the proposed action to minimize the potential adverse impacts within the floodplain.

The proposed project will not alter the floodplain beyond what is already occurred from the construction of levees to control the Mississippi River and previous developments on the subject property.

The City of Gretna estimates that the hurricane warning time to safely evacuate all residents of Gretna is as much as forty-eight (48) hours. In 2006, the City of Gretna released its Emergency Preparedness Plan which was updated to address inadequacies in the evacuation for Hurricane Katrina. All residents of the apartment building will need to

follow the City's Emergency Preparedness Plan. Emergency information and evacuation procedures during a storm/flood event will be provided to the community by radio and television through the City's Emergency Broadcast System.

Step 6 Reevalue the proposed alternatives.

Although the proposed project site is located within a 100-year floodplain, the lower Mississippi River system has not been a natural river system since the 1920's. The proposed project will not impact or alter the floodplain beyond what has already occurred from the construction of the protective levee system.

The threat of flooding to life and property is still a concern, as the levee system may fail in extreme weather events, such as hurricanes. Due to the nature of hurricanes, there are adequate emergency systems in place to give residents enough warning time to evacuate if there is danger of an incoming hurricane.

Plans for the site include the rehabilitation of 204 apartment units to include appliance upgrades and cosmetic changes to include new HVACs, new energy efficient water heaters, new energy star appliances, sidewalk repair. Twenty percent of the apartment units will be offered as affordable housing.

The "no action" alternative is not feasible due to safety concerns on-site and to surrounding communities.

Step 7 Determination of No Practicable Alternative Publish of Final Notice

It is our determination that there is no practicable alternative to locating the project within the AE Flood Zone because:

- 1) All other possible locations within the City of Gretna are also located within the 100-year floodplain. Therefore, location of the project outside of the floodplain is not a feasible option.
- 2) The funding parameters for this project are tied to the present project location.
- 3) If rehabilitation did not occur, the apartment complex will continue to deteriorate.
- 4) Plans for the site include rehabilitation of 204 units to include appliance upgrades and cosmetic changes to include new HVACs, new energy efficient water heaters, new energy star appliances, sidewalk repair, including affordable housing and market rate units.

Step 8 Implement the proposed action.

Having considered all practical alternatives and public comments Summit will proceed with the rehabilitation of Belmont Apartments.

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097

TELEPHONE (504) 826-3206

NOTICE OF PROPOSED IMPROVEMENTS AND DEVELOPMENT IN A FLOODPLAIN

Summit Asset Management (Summit) proposes to rehabilitate 204 apartment units at 720 Carrollwood Village Drive in Gretna, Louisiana. The property is bounded by Carol Sue Avenue to the north, Matador Drive to the south, S. Rue Marcel to the east and Behrman Highway to the west. The site is located within the AE flood zone identified on the Federal Insurance Rate Map, No. 22051C0145E. Twenty percent of the units will be offered as affordable housing. The units are currently occupied and will be rehabilitated with tenants in-place, which will mostly include upgrades or cosmetic changes.

Although no practicable alternatives to locating the project in a floodplain have been identified, potential adverse impacts that may result from this project have been mitigated through construction design. Written comments regarding this issue should be received within 30 days of publication of this notice in order to be considered by the developer in its decision process. Comments should be sent to: Angelika H. Phillips, United States Risk Management, LLC, 365 Canal Street, Suite 2760, New Orleans, LA 70130.

I attest that the copy attached hereto as "Exhibit A" is a true and correct copy of the advertisement published in The Times Picayune on these dates.

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the parish of Orleans, Robert J. Chiasson who deposes and says that he is the Accounts Receivable Manager, of The Times-Picayune Publishing Corporation, a Louisiana Corporation, Publishers of The Times-Picayune, Daily and Sunday, of general circulation; doing business in the City of New Orleans and the State of Louisiana, and that the attached

LEGAL NOTICE

Re: Notice of Proposed Improvements & Development in a Floodplain Summit Asset Management 2034 Apartment

Advertisement of

U.S Risk Management, LLC

365 Canal Street Suite 2760
New Orleans, La. 70130

Was published in

Times Picayune

3800 Howard Ave.
New Orleans, La. 70125

On the following dates

October 29, 2008

Sworn to and subscribed before me this
Day of

29th

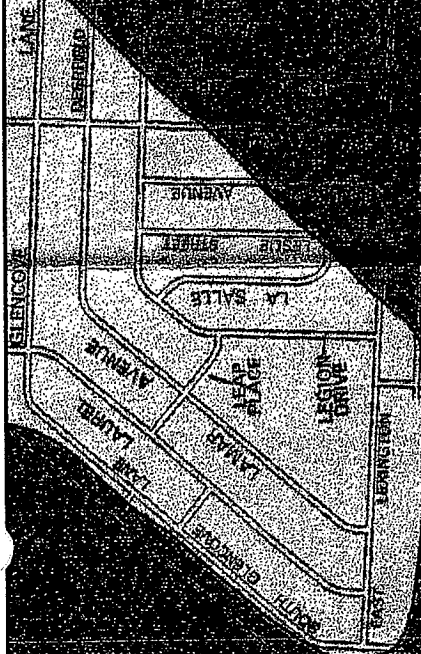
October, 2008

Notary Public

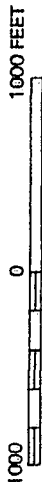
My commission expires at my death.

Charles A. Ferguson, Jr.

Notary identification number 23492



APPROXIMATE SCALE



NATIONAL FLOOD INSURANCE PROGRAM

FIRM FLOOD INSURANCE RATE MAP JEFFERSON PARISH, LOUISIANA AND INCORPORATED AREAS

PANEL 145 OF 350

(SEE MAP INDEX FOR PANELS NOT PRINTED)

CONTAINS:

<u>COMMUNITY</u>	<u>NUMBER</u>	<u>PANEL</u>	<u>SUFFIX</u>
SIGMA CITY OF	225188	0145	E
UNINCORPORATED AREAS	225189	0145	E

Notice To User: The MAP INDEX shown below should be used when planning map orders; the COMMUNITY ALPHABET shown above should be used on Internet applications for the subject community.

MAP NUMBER
22051C0145 E

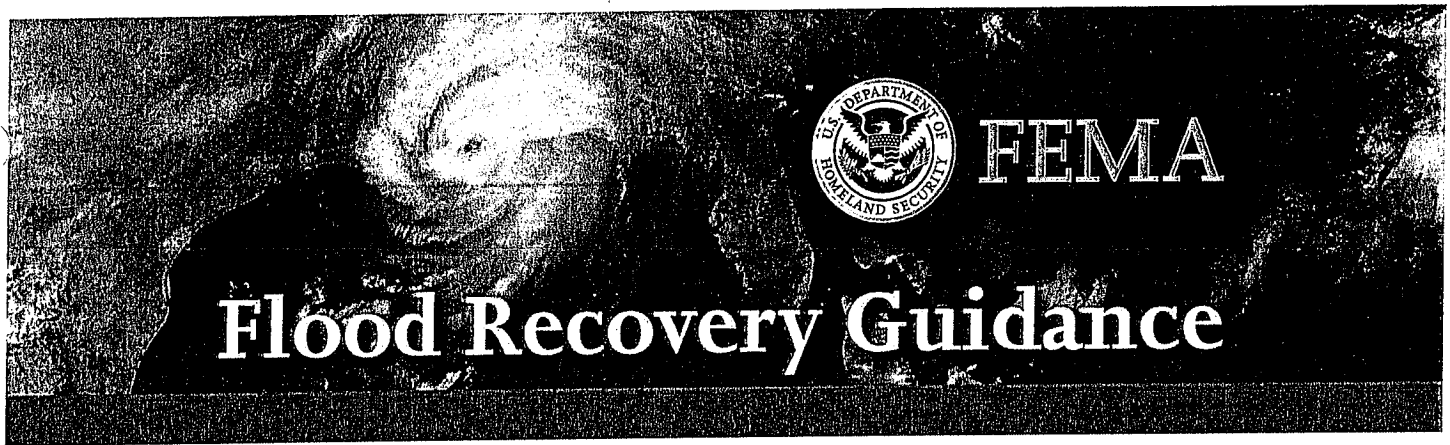
EFFECTIVE DATE
MARCH 23, 1995



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Federal Emergency Management Agency

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ADVISORY Base Flood Elevations for Jefferson Parish, Louisiana

Hurricanes Katrina and Rita were both strong Category 5 hurricanes for several days in the Caribbean and Gulf of Mexico, before pushing waters toward the Louisiana coast. Katrina made landfall on August 29, 2005, near the Mississippi-Louisiana border, and Rita made landfall on September 23, 2005, at the Texas-Louisiana border. These hurricanes caused extensive damage in the parishes of along the Gulf Coast and Lake Pontchartrain.

To minimize the flood impacts of future events, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) is providing advisory information concerning coastal flood elevations and interior levee ponding elevations that can be used to guide recovery efforts. This guidance is necessary because Hurricanes Katrina and Rita, along with other recent storms, have created concerns about the accuracy of the flood risk information for Jefferson Parish (including incorporated areas) and whether the risk may be understated.

Assessing flood hazards in Jefferson Parish is challenging due to the existence of numerous flood control facilities. These facilities experienced damage of varying degrees throughout southeastern Louisiana as a result of Hurricanes Katrina and Rita, and the U.S. Army Corps of Engineers (USACE) is on an aggressive path to repair and improve the flood control system. The USACE is on schedule to have repairs to damaged areas completed by June 2006, to have all federal levees constructed to authorized heights by September 2007, and to have fully authorized levels of protection and improvements to the system completed by 2010.

Although USACE improvements to the flood control system will make Jefferson Parish safer than it was before the storms, they will not eliminate the potential for flooding. In fact, based on analyses recently completed by the USACE, the flood control system will not meet the standards

necessary for providing protection against the 1-percent-annual-chance (100-year) flood, which is also referred to as the base flood. The National Flood Insurance Program (NFIP) uses the base flood as the standard for floodplain management.

FEMA and the USACE have worked together to develop flood hazard data and formulate recommendations to be considered by State and local governments as they begin to make recovery decisions. This information is both reliable and current, and is aimed at assisting in the recovery process as it moves forward. Owing to the differences in flood risk information for areas inside and outside of levees, this Flood Recovery Guidance has been organized below to treat these two physical settings separately.

Inside of Levee-Protected Areas

For areas in the Parish located within existing levees, FEMA has determined that eventual levee certification is likely. In the levee areas of Sub-Basins "a" to "e" located in the northern part of the Parish (see Figure 1), FEMA recommends the following: new construction and substantially damaged homes and businesses within a designated FEMA floodplain should be elevated to either the Base Flood Elevation (BFE) shown on the current effective Flood Insurance Rate Map (FIRM) or at least 3 feet above the highest adjacent existing ground elevation at the building site, whichever is higher; and new construction and substantially damaged homes and businesses not located in a designated FEMA floodplain should be elevated at least 3 feet above the highest adjacent existing ground elevation at the building site.

For the Parish Advisory BFE (ABFE) inside levees, this Guidance is similar to NFIP rules for areas protected by levees being restored to provide 1-percent-annual-chance base flood protection. Should the requirements needed for application of these rules fail to materialize, flood elevations

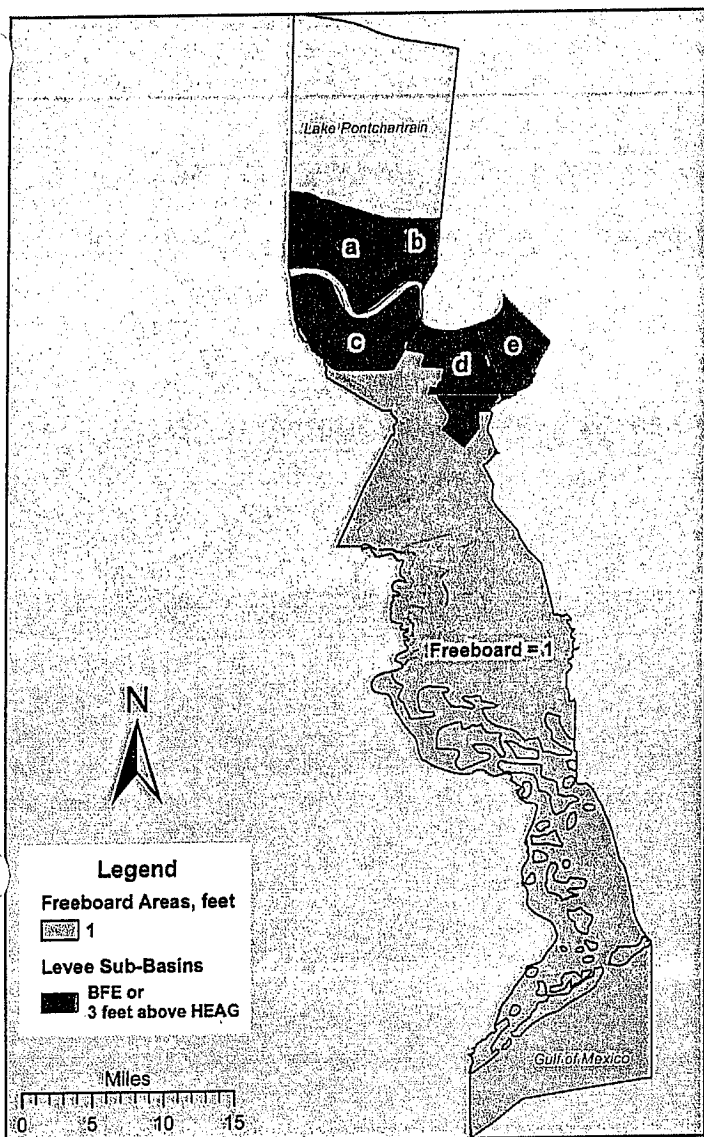


Figure 1. ABFE guidance and levee sub-basin locations for Jefferson Parish.

in this area would be based on a “without levee” scenario and could exceed an elevation of 9 feet north of the Mississippi River and 8 feet south of the Mississippi River, referenced to the National Geodetic Vertical Datum of 1929 (NGVD29).

In addition to the recent USACE storm surge modeling, FEMA has also developed these recommendations based on the height and integrity of the levee system expected to be in place by September 2007. Although FEMA is confident in the results from this current assessment, the agency will continue to monitor progress made with regard to levee improvements, findings from other ongoing studies, and enhancements to the agency’s understanding of the probability of flooding in this area. FEMA will adjust the recommended flood elevations as necessary as the agency prepares updated FIRMs for Jefferson Parish and its incorporated areas.

Outside of Levee-Protected Areas

USACE, in close coordination with FEMA, has completed a preliminary analysis of the 1-percent-annual-chance flood elevations for all areas outside of levees along the Gulf of Mexico shorelines south of the Mississippi River and Parish levee Sub-Basins “c” to “e”, and Lake Pontchartrain. This analysis considered storm data from the past 155 years (including Hurricanes Katrina and Rita), new and existing long-term tidal gage records, and other existing engineering studies. The results of the USACE storm data analysis indicate that the new 1-percent-annual-chance flood elevations in areas impacted by coastal storm surge are higher than those shown on the current, effective FIRMs for Jefferson Parish.

As a result of the storm data analysis, FEMA has developed ABFEs that incorporate freeboard above the BFEs shown on the FIRMs. “Freeboard” is defined as follows (from 44 CFR 59.1):

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FEMA recommends that for all outside-levee areas in Jefferson Parish south of the Mississippi River (see Figure 1), a freeboard of 1 foot be applied. That is, structures should be elevated at least 1 foot above the current BFE shown on the effective FIRM for the building site.

Community Adoption

FEMA is encouraging local officials and citizens to adopt the elevation and freeboard recommendations for inside and outside of levee-protection made in this Guidance Document and elevate structures accordingly. These added precautions will take into account increased flood risk due to subsidence, provide extra flood protection to the structure, reduce nuisance flooding, and may result in lower flood insurance premiums. Using elevation and freeboard are prudent measures for ensuring structures are rebuilt using the best available information to protect lives and property, and is also a sound floodplain management practice that communities are encouraged to adopt and enforce.

Updated Flood Risk Information for Jefferson Parish

A FEMA coastal model study of hurricane storm surge flooding and levee flood protection is already underway at USACE, and FEMA intends to have an updated preliminary

Flood Insurance Study (FIS) and updated FIRMs for coastal areas of Jefferson Parish as soon as possible. The updated FIS and FIRMs may show an increase of the 1-percent-annual-chance stillwater elevations (SWELs), Special Flood Hazard Areas (SFHAs), and BFEs over existing flood data (including the storm data analysis and engineering studies used for this Flood Recovery Guidance), and may result in the coastal high hazard area (V Zone) moving further landward.

Until the restudy is completed, FEMA is encouraging communities within Jefferson Parish to use the Flood Recovery Guidance described herein. This Flood Recovery Guidance method can be used during the recovery and reconstruction of the Louisiana coastal and levee-protected areas by determining the site-specific ABFEs as described below.

Flood Recovery Guidance Method Inside of Levee-Protected Areas

1. Method for Calculating ABFE Inside of Levee-Protected Areas:

ABFE = The greater of either the FIRM BFE or the highest existing adjacent grade (HEAG) at the building site + 3 feet

2. Example:

Consider a site where:

Jefferson Parish FIRM BFE = Zone AE (EL 5 feet)
(relative to NGVD29)

Site HEAG = 4 feet (NGVD29)

Compare FIRM BFE to site HEAG + 3 feet.

BFE of 5 feet < 7 feet (site HEAG of 4 feet + 3 feet)

ABFE at this site is 7 feet (NGVD29). Therefore, the structure's first floor (including basement) is recommended to be elevated to 7 feet (NGVD29) or higher.

To apply the Flood Recovery Guidance provided above to determine an ABFE for inside of levee-protected areas, individuals must review the current, effective FIRM and detailed topographic data (ground elevations) for the building site. In the Parish levee Sub-Basins "a" to "e", the first floor of new construction is recommended to be elevated to the BFE shown on the FIRM or at least 3 feet above the highest adjacent existing ground elevation at the building site, whichever is higher. (A professional surveyor may need to be consulted to accurately determine the highest adjacent existing grade for the proposed site.)

Outside of Levee-Protected Areas

1. Method for Calculating ABFE Outside of Levee-Protected Areas:

ABFE = FIRM BFE + Freeboard

FIRM BFE = 100-year SWEL + wave height

Freeboard = 1 foot for areas south of the Mississippi River

2. Example:

For Jefferson Parish FIRM BFE = Zone VE (EL 12 feet) and

Freeboard = 1 foot ABFE = 12 + 1 = 13 feet NGVD29

Compare ABFE to the lowest adjacent grade (LAG) elevation.

Building LAG (z) = 4 feet; the building is recommended to be elevated 9 feet above ground surface.

To apply the Flood Recovery Guidance provided above to determine an ABFE in areas outside of levees south of the Mississippi River and levee Sub-Basins "c" to "e", the first step is to determine the SFHAs and BFEs from the effective FIRM that apply to the structure on the building site.

Once the BFE applicable to the building has been determined, the ABFE can be calculated (see Figure 2) using the appropriate freeboard amount specified above based on location within the parish. Specifically, for areas south of the Mississippi River, the ABFE is the current BFE plus a freeboard of 1 foot. For structures located in Zone VE on the effective FIRMs, the bottom of the lowest horizontal structural member is recommended to be at the ABFE.

Other Pertinent ABFE Information

Although the information provided here is advisory, communities should consider its use for rebuilding in a safer manner. For additional information, community officials, residents, and other interested parties can access the FEMA website for these flood recovery advisories at <http://www.fema.gov/hazard/flood/recoverydata/index.shm>.

In addition to determining site-specific ABFEs, community officials should consider additional protective measures to reduce future flood risks. These measures could include using additional freeboard and using the FEMA Coastal Construction Manual (CCM) (FEMA Publication 55). The CCM recommends the use of V Zone building standards in all areas subject to waves and velocity floodwaters caused by hurricane

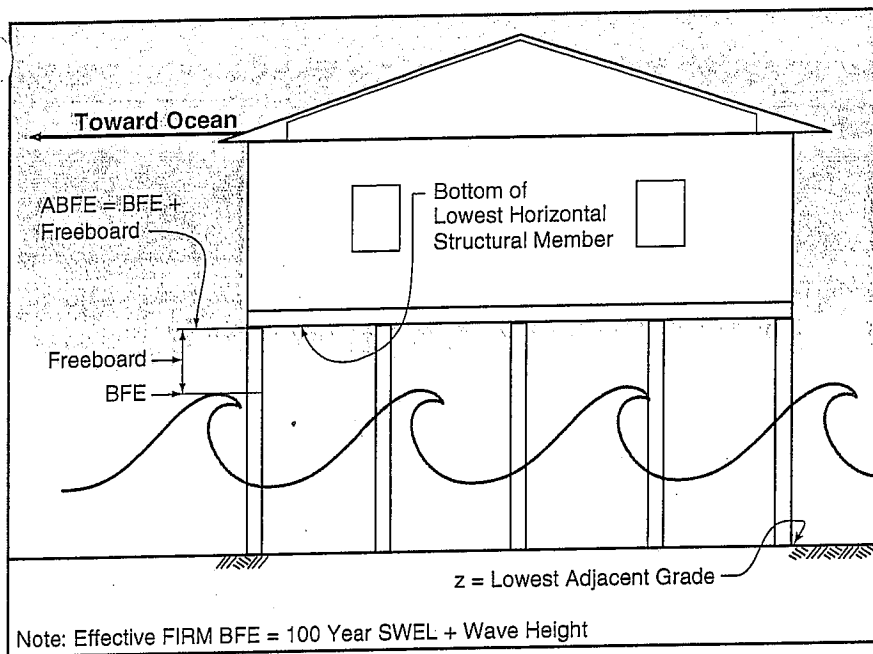


Figure 2. How to determine the ABFE based on the site's effective BFE and recommended freeboard.

storm surges. For additional information on recommended practices, see the Coastal Construction Fact Sheet Series available at <http://www.fema.gov/fima/mat/fema499.shtm>.

Ultimately it will be local officials, working with property owners, who will make final decisions regarding construction type and elevations that will apply during the recovery and rebuilding process. The ABFEs will be a valuable tool until new model studies can be developed and incorporated into the FIS and FIRMs. Within the next one to two months, FEMA will also publish a set of maps that will show detailed event information for Hurricanes Katrina and Rita, including flood inundation boundaries and high-water elevations.

Datum Conversion Considerations

Conversion of orthometric height measurements (elevations) from the NGVD29 to North American Vertical Datum of

1988 (NAVD88) is of importance to surveyors and building officials using this Guidance. Studies show some variability of the conversion factor between NGVD29 and NAVD88 over the geographic extent of Jefferson Parish, and it would appear that a Parish average conversion factor of -0.23 foot would be appropriate for application. For site-specific determinations, a tool such as CORPSCON, developed by the USACE (<http://crunch.tec.army.mil/software/corpscon/corpscon.html>), can be used. The latest information on NAVD88 elevations in Louisiana can be found on the National Oceanic and Atmospheric Administration's (NOAAs) National Geodetic Survey (NGS) website at <http://www.ngs.noaa.gov/heightmod/LouisianaControl.shtml>. Future updates to the FIS and FIRM by FEMA will include a conversion of all flood data and BFEs within the Parish from NGVD29 to NAVD88.

Documentation for Statutory Checklist Websites and Other Information

All letters to jurisdictional agencies should include the complete address of the activity, a site map, a legal description, whether the activity is new construction or rehabilitation (if rehab, what year the structure was built) and the latitude and longitude of the activity.

1. Historical Preservation: There must be a request for comment (faxed and mailed), and a response from the State Historical Preservation Officer.

Mail request to: State Historic Preservation Office
LA Dept of Cultural Development
PO Box 44247
Baton Rouge LA 70804
FAX NUMBER: (225) 342-4480

The determination is complete if the SHPO agrees that there are No Historic Properties Affected per 36 CFT 800.4, no adverse effects on historic properties per 800.55(b), or SHPO has not objected within 30 days to such fully documented determinations.

If the proposal has an adverse effect on historic properties, there must be consultation with SHPO per 800.5 et seq., to resolve or mitigate adverse effects.

2. Floodplain Management: If a property is located in Flood Zone A or V, an 8-step decision-making process concerning floodplain management is necessary. (24 CFR Part 55.12 Subpart C).

3. Wetland Protection: The project cannot involve new construction within or adjacent to wetlands, marshes, wet meadows, mud flats or natural ponds.

Mail request to: CEMVN-OD-SS

ATTN: Chief, Surveillance & Enforcement

US Army Corps of Engineers

PO Box 60267

New Orleans LA 70160-0267

along with a completed Corps of Engineers determination letter.

NOTE: The Corps does not accept faxed requests.

4. Coastal Zone Management (CZM): If the site is in a CZM area, a letter of consistency is needed from the CZM Agency.

Mail request to: Dept of Natural Resources

Coastal Management Division

PO Box 44487

Baton Rouge LA 70894

No action is required if the property is located inland.

Additionally, no Federal funds are included if the site is located in a Coastal Barrier Island designated area.

5. Sole Source Aquifers (Safe Drinking Water Act): There must be consultation with the EQP to determine that construction will not negatively affect a sole source aquifer recharge zone.

Mail request to: Clay Chesney

US Environmental Agency

Ground Water/UIC Section (6WQ-SG)

1445 Ross Avenue

Dallas TX 75202

6. Endangered Species:

Mail request to: Ms. Karen Soileau
Louisiana Field Office
US Department of the Interior
Fish and Wildlife Service
646 Cajundome Blvd., Suite 400
Lafayette LA 70506
FAX NUMBER: (337) 291-3139

7. Wild and Scenic Rivers: There is only one Wild and Scenic River in Louisiana. It is located from Saline Lake upstream to the Kisatchie National Forest in Natchitoches Parish, and is 19 miles long.

8. Farmlands

If the property is being converted from farmland to non-agricultural use, a letter must be sent to:

US Department of Agriculture
Natural Resource Conservation Service
Lake Charles Service Center
1400 Gertsner Memorial Drive
Lake Charles LA 70601
ATTN: Frank Chapman
(337) 436-1483

There are mandatory flood insurance requirements if a structure is located in Flood Zone A or V.